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Attorneys for Defendants
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C. PATRICK MACHADO and LYNN SEELY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID APPLESTEIN, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

MEDIVATION INC., DAVID T. HUNG, C.
PATRICK MACHADO, LYNN SEELY and
GREGORY BAILEY,

Defendants.

Case No. CV-10-0998 EMC

**STIPULATION AND [PROPOSED] ORDER
PERMITTING LEAD PLAINTIFF TO FILE
THIRD AMENDED COMPLAINT, SETTING
BRIEFING SCHEDULE, AND POSTPONING
THE CASE MANAGEMENT CONFERENCE
CURRENTLY SET FOR DECEMBER 2, 2011**

1 WHEREAS, the original complaint was filed in this action on March 9, 2010 under the
2 caption *David Applestein et al. v. Medivation, Inc. et al.*, Case No. CV-10-0998.

3 WHEREAS, on April 7, 2011, the Court entered an Order appointing Catoosa Fund, LP as
4 Lead Plaintiff in this action.

5 WHEREAS, Lead Plaintiff filed a Consolidated and Amended Complaint ("CAC") on May
6 9, 2011.

7 WHEREAS, Defendants moved to dismiss the CAC on June 8, 2011; Lead Plaintiff filed an
8 opposition to the motion on July 8, 2011; Defendants filed a reply in support of their motion on
9 July 22, 2011, and the Court held a hearing on the motion on August 12, 2011.

10 WHEREAS, on August 18, 2011, the Court entered an Order granting Defendants' motion
11 to dismiss the CAC without prejudice. The Order provided that Lead Plaintiff would have thirty
12 days from the date of the Order to file a Second Amended Complaint ("SAC") and Defendants
13 would then have 30 days from the date of filing of the SAC in which to respond thereto.

14 WHEREAS, the Court's August 18 Order also scheduled a further status conference for
15 December 2, 2011, at 9:00 a.m., and instructed the parties to file a joint status conference
16 statement one week before the conference, or by November 23, 2011.

17 WHEREAS, on September 15, 2011, Lead Plaintiff filed a motion for extension of time,
18 seeking an additional 45 days in which to file the SAC.

19 WHEREAS, the Court granted Lead Plaintiff's motion on September 16, 2011 over
20 Defendants' written objection.

21 WHEREAS, Lead Plaintiff filed the SAC on November 2, 2011, triggering a December 1,
22 2011 deadline in which for Defendants to respond.

23 WHEREAS, on November 18, 2011, Lead Plaintiff filed a Motion for Leave To File a Third
24 Amended Complaint and supporting memorandum, along with a copy of Lead Plaintiff's
25 proposed Third Consolidated and Amended Complaint ("TAC"), which was attached as an
26 exhibit to the Declaration of U. Seth Ottensoser in Support of Lead Plaintiff's Motion for Leave
27 to File a Third Amended Complaint. The motion is currently scheduled to be heard on December
28 23, 2011 at 1:30 p.m.

WHEREAS, the parties have met and conferred regarding Lead Plaintiff's motion for leave to file the TAC and the pending status conference currently scheduled for December 2, 2011, and in the interests of efficiency and judicial economy, now wish to stipulate as follows.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED between the parties in this action, by and through their respective counsel of record, that:

1. Pursuant to Federal Rule of Civil Procedure 15(a)(2), Defendants consent to Lead Plaintiff filing the TAC. Lead Plaintiff shall file the TAC on or before November 28, 2011.

2. Upon its filing, the TAC will be the operative complaint in this action. Defendants will have no obligation to respond to the SAC.

3. The December 23, 2011 hearing on Lead Plaintiff's motion for leave to file the TAC is hereby vacated.

4. Defendants' will move to dismiss or otherwise respond to the TAC on or before January 13, 2012. Lead Plaintiff will file any opposition thereto on or before February 13, 2012, and Defendants will file any reply in support of their motion on or before March 5, 2012.

5. Defendants' motion to dismiss the TAC will be heard by the Court on Friday, March 16, 2012 at 1:30 p.m. or on such other date as may be convenient for the Court.

6. The status conference currently scheduled in this matter for December 2, 2011 at 9:00 a.m. will be postponed to March 16, 2012 at 1:30 p.m. to coincide with the hearing on the motion to dismiss the TAC, or to such other date and time as the Court may set for that hearing. The parties will file a joint status conference statement one week before the status conference.

Dated: November 23, 2011

BERNSTEIN LIEBHARD LLP

/s/

U. Seth Ottensoser (*pro hac vice*)

Lead Counsel for Lead Plaintiff and the
Proposed Class

1 Dated: November 23, 2011

COOLEY LLP

3 /s/

4 Angela L. Dunning (212047)

5 Attorneys for Defendants
6 MEDIVATION INC., DAVID T. HUNG,
7 C. PATRICK MACHADO and LYNN SEELY

8 **FILER'S ATTESTATION**

9 Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that
10 all parties have concurred in the filing of this Stipulation and [Proposed] Order Permitting
11 Plaintiff To File Its Third Amended Complaint, Setting a Briefing Schedule, and Postponing the
12 Case Management Conference Currently Set for December 2, 2011.

13 Dated: November 23, 2011

COOLEY LLP

15 /s/

16 Angela L. Dunning

17 Attorneys for Defendants
18 MEDIVATION INC., DAVID T. HUNG,
19 C. PATRICK MACHADO and LYNN SEELY

20 **IT IS SO ORDERED.** (as modified in paragraph 4 above)

21 Dated: 11/23, 2011

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